

## **REMARKS/ARGUMENTS**

The present application has been carefully reviewed in light of the May 9, 2003 Office Action wherein the currently pending claims rejected under 35 U.S.C. §103 as being unpatentable over the public use of the service provided by MarathonFoto, as evidenced by the Runner's World web-site dated October 6, 1999 as well as the LaSalle Bank Chicago Marathon web-site, in view of official notice regarding competitive sporting events, in further view of the Garfinkle U.S. Patent No. 6,017,157 and Siegel et al.

Applicant includes herewith the Declaration of the Inventor, Peter H. Wolf, pursuant to 37 C.F.R. §1.131 evidencing that Mr. Wolf had invented the present invention before the October 6, 1999 date of the Runner's World web-site publication. As such, this reference is improper. The provisional patent application in this case was filed on November 5, 1999. Mr. Wolf's activities occurred less than one year prior to this filing date, but before the Runner's World web-site publication and the LaSalle Bank Chicago Marathon web-site publication. Accordingly, Applicant respectfully traverses these rejections on the basis that the references do not meet the time requirements under 35 U.S.C. §103.

As stated in Applicant's last Response, the Garfinkle patent discloses a system wherein consumers present their film or digital camera chip for processing which is subsequently downloaded onto a web-site so that the consumer can view such photographs and determine which photographs to have made into prints. Garfinkle does not disclose the present invention.

The Siegel et al. (U.S. Patent No. 6,545,705) patent does not disclose the present invention, and fails to make up for the shortcomings of the Garfinkle reference. The Siegel et al. system is directed to a finish line imaging system to determine crossing times of contestants. This information is immediately presented to the judges in the form of raw image frames, presumably to eliminate human error in determining the victor of a running race. There is no mention of cataloging photographs in a web-site server according to identifying data, accessing the server and searching for a particular photograph utilizing any identifying data, nor displaying a

particular photograph for inspection and ordering. This is because the Siegel et al. system and the system of the present invention are completely non-analogous to one another.

From the foregoing, Applicant respectfully requests that the Examiner withdraw her rejections due to the failure of the references. Applicant continues in his belief that the claims of the present application are patentably distinct from the prior art, and in condition allowance, notice of which is hereby respectfully requested.

Respectfully submitted,  
KELLY BAUERSFELD LOWRY & KELLEY, LLP

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

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Enclosure